

INSTRUCTIONS FOR MODIFYING PRIMARY RESIDENTIAL RESPONSIBILITY (CUSTODY) WITH A WRITTEN AGREEMENT

IMPORTANT! READ BEFORE USING THESE FORMS AND INSTRUCTIONS

ND Legal Self Help Center staff and court employees cannot help you fill out the form(s). If you are unsure how to proceed, you should consult a lawyer.

To protect your rights, carefully read this information and any instructions to which you are referred.

You may go to court without a lawyer, but you will have to abide by the state and/or federal laws that apply to your case, the appropriate court rules, including North Dakota Rules of Civil Procedure, North Dakota Rules of Court, North Dakota Rules of Evidence, North Dakota Administrative Rules and Orders, and any local court rules. Links to the rules and state laws can be found at www.ndcourts.gov under the Research link.

When you represent yourself, you are held to same requirements and responsibilities as a lawyer, even if you don't understand the rules or procedures.

A glossary with definitions of legal terms is available at www.ndcourts.gov/ndlshc.

This information is not a complete statement of the law. This covers basic procedure for motioning a North Dakota District Court to modify primary residential responsibility in an existing North Dakota District Court judgment because the parents have reached a written agreement. If the forms do not fit your circumstances, consult a lawyer. There is no guarantee that all judges and courts will accept forms available through the ND Legal Self Help Center. Use at your own risk.

YOU MAY USE THIS PACKET OF FORMS ONLY IF:

You have a Grand Forks County or Nelson County North Dakota District Court judgment that established residential responsibility (custody) and/or parenting time (visitation); **and**

- There is no domestic violence protection order, disorderly conduct restraining order, or no contact order currently in effect regarding either you or the other parent.;
- You and the other parent are currently in contact with each other;
- You and the other parent completely agree on all modifications to the North Dakota District Court judgment, including the child support amount associated with the judgment; **and**
- Neither you nor the other parent is represented by an attorney.

IF YOU DO NOT MEET THE REQUIREMENTS OF WHO MAY USE THIS PACKET OF FORMS

If your situation does not meet the requirements of who may use this packet of forms, you may bring a contested (no agreement) motion to modify primary residential responsibility. **However**, neither the ND court system nor the ND Legal Self Help Center currently has a packet of forms for you to use.

If you decide to represent yourself in a contested motion to modify, you will need to create your own legal documents, or retain an attorney to create the legal documents for you.

A Modifying Primary Residential Responsibility Research Guide is available at www.ndcourts.gov/ndlshc/ by clicking on the “Family Law” link. Scroll to the end of the webpage to find the research guide section.

The Modifying Primary Residential Responsibility Research Guide is your starting point for your research into modifying primary residential responsibility in an order of a North Dakota district court. The research guide also includes general information about the legal documents you will need to create in order to bring a contested motion to modify primary residential responsibility to a North Dakota District Court.

CAUTION REGARDING DOMESTIC VIOLENCE

Domestic violence protection orders, disorderly conduct restraining orders, and no contact orders generally do not allow communication between the person protected by the order and the person the order is against.

This packet of forms is designed to be used by parents who represent themselves and agree on all modifications to the current judgment. The parents must be in communication with each other to share information, make decisions and complete the forms before filing with the Clerk of District Court. If there is a domestic violence protection order or disorderly conduct restraining order in effect against either parent, you may not use these forms.

If there is no domestic violence protection order or disorderly conduct restraining order in effect, but you are concerned about the impact of domestic violence on you or your child(ren), this packet of forms may not be suitable. Before using this packet of forms, you are strongly urged to consult a lawyer and to contact a domestic violence intervention center in your area to help you navigate your situation. CAWS North Dakota can help you find a domestic violence intervention center in your area. The phone number is (888) 255-6242; the website is www.cawsnorthdakota.org.

MODIFYING PRIMARY RESIDENTIAL RESPONSIBILITY WITH A WRITTEN AGREEMENT BETWEEN THE PARENTS

(Please note that in 2009 the North Dakota State Legislature changed the term “custody” to “residential responsibility” and changed the term “visitation” to “parenting time.”)

When a North Dakota District Court awards residential responsibility in a family law case, such as divorce, legal separation, or other action to establish parenting rights and responsibilities, either parent may ask the court to modify primary residential responsibility in the existing case, if certain requirements are met.

In general, there is a 2 year time limit before either parent may request modifications to primary residential responsibility. However, an exception to the 2 year time limit is a written agreement between the parents for modification.

This packet of forms allows parents to present their request to modify primary residential responsibility to a North Dakota District Court based on their written agreement.

FORMS IN THE PACKET

Form Title	Purpose
Stipulated Agreement to Modify Primary Residential Responsibility	A written agreement of the modifications to primary residential responsibility in the current North Dakota judgment. Signed by both parents.
Financial Affidavit	Written verification of the financial information used to calculate the modified child support amounts in the Stipulated Agreement.
Confidential Information Form	Lists the full confidential information that is not allowed to appear in other documents filed with the Court. This form is a part of the court record that is not seen by the public.
Notice of Motion to Modify Primary Residential Responsibility	A written notice that tells all parties that a request for an order will be made to the Court. States that the parents have reached a written agreement and requests a decision based only on the documents filed.
Motion to Modify Primary Residential Responsibility	A short, written request to the Court for an order modifying primary residential responsibility.

Form Title	Purpose
Brief in Support of Motion to Modify Primary Residential Responsibility	A written explanation of why the Court should grant your request. A brief takes the specific rules and laws that support your request and explains how they apply to the facts of your particular situation.
Affidavit in Support of Motion to Modify Primary Residential Responsibility	A written statement made under oath in front of an authorized officer. Facts referred to in the brief appear in the affidavit. The affidavit must be signed in the presence of a notary public or clerk of court by the individual making the statement.
Order to Amend the Judgment (Proposed)	This is your proposed order for the Court to sign, if the Court grants your request. The proposed order is based on your Stipulated Agreement.
Amended Judgment (Proposed)	This is your proposed amended judgment for the Court to sign, if the Court grants your request. The proposed amended judgment is based on your Stipulated Agreement.
Admission of Service	Proof that copies of the completed Notice of Motion, Motion, Brief, Affidavit and Stipulated Agreement were delivered to and accepted by the Non-moving parent.

FEES

A filing fee of \$30.00 is required.

- If you are unable to afford the filing fee, you may file a written request to waive the \$30.00 filing fee with the District Court.
- Forms and instructions for a fee waiver request are available at www.ndcourts.gov/ndlshc/ by clicking on the “Other Forms” link.

Other fees may apply. The fees include, but are not limited to:

- Service fees Varies
- Copy of Documents \$.10 per page, \$1.00 minimum

THE PARTIES

Plaintiff: The parent who is listed as the Plaintiff in the original family law action that established residential responsibility and/or parenting time.

Defendant: The parent who is listed as the Defendant in the original family law action that established residential responsibility and/or parenting time.

Moving party: The parent bringing the motion to modify, in other words, the parent who completes and signs the Notice of Motion, Motion, Brief in Support of Motion, and Affidavit in Support of Motion. The moving party in a motion may be either the Plaintiff or the Defendant.

Non-moving party: The other parent, in other words, the parent who is not bringing the motion.

NORTH DAKOTA LAWS & RULES RELATED TO MODIFYING PRIMARY RESIDENTIAL RESPONSIBILITY:

Chapter 14-05 **Divorce** <http://www.legis.nd.gov/cencode/t14c05.html>

Chapter 14-09 **Parent and Child** <http://www.legis.nd.gov/cencode/t14c09.html>

- See specifically, Section 14-09-06.6: Limitations on post-judgment modifications of primary residential responsibility.
- See also, Section 14-09-06.2: Best interests and welfare of child – Court considerations – Factors.
- See also, Section 14-09-30: Parenting Plan – Contents.

Chapter 14-14.1 **Uniform Child Custody Jurisdiction and Enforcement Act**

<http://www.legis.nd.gov/cencode/t14c14-1.html>

Rule 6 of the North Dakota Rules of Civil Procedure: Computing and Extending Time; Time for Motion Papers. <http://www.ndcourts.gov/court/rules/CIVIL/rule06.htm>

Rule 3.2 of the North Dakota Rules of Court: Motions.

<http://www.ndcourts.gov/court/rules/NDROC/rule3.2.htm>

Laws constantly change through legislation, administrative rulings and court decisions. To determine how a law applies to your situation, review the applicable law or laws, administrative rulings and court decisions.

DEFINITIONS

Best Interests of the Child: The 13 factors the District Court uses when deciding the residential responsibility and parenting time arrangements that are in the best interests of the child. The 13 factors are listed in North Dakota Century Code Section 14-09-06.2. (Use link above.)

Custody: See Residential responsibility.

Decision Making Responsibility: The responsibility to make decisions concerning the child. The term may refer to decisions on all issues or on specific issues, but not child support issues.

Material Change in Circumstances: Significant change or changes since the original judgment, unknown at the time of the original judgment, requiring a modification in primary residential responsibility to serve the best interests of the child or children.

Obligor: The person ordered by the court to pay child support.

Obligee: The person receiving child support ordered by the court.

Parental Rights and Responsibilities: All the rights and responsibilities a parent has concerning the parent's child.

Parenting Plan: A written plan describing each parent's rights and responsibilities.

Parenting Schedule: The schedule of when the child is in the care of each parent.

Parenting Time: The time when the child is to be in the care of a parent. (Also known as visitation.)

Prima Facie Case: Evidence presented in writing that is strong enough, if not contradicted, to support a change in primary residential responsibility.

Primary Residential Responsibility: A parent with more than 50% of the residential responsibility.

Residential Responsibility: A parent's responsibility to provide a home for the child. (Also known as custody.)

Visitation: See Parenting time.

STEPS TO MODIFY PRIMARY RESIDENTIAL RESPONSIBILITY WITH A WRITTEN AGREEMENT BETWEEN THE PARENTS

Step One:

Review the Forms and Instructions; Gather Information; Make Decisions.

Review the forms and instructions:

Read these instructions carefully. Review the individual forms. Determine if the forms apply to your situation. If you do not know if you should use this packet of forms, consult an attorney who is licensed to practice in North Dakota.

Gather information:

- At least one copy of the original judgment that established residential responsibility and/or parenting time, OR, if the original judgment has been amended, the most recently amended judgment.
- Financial information and documentation for child support calculations.
 - You will calculate the child support amount for the parent who will have less than 50% of the residential responsibility, if your motion is granted.
 - Use the Financial Affidavit form to assist with gathering the financial information and documentation.

Make decisions:

Decide which parent will be the moving party. The moving party will complete and sign the Notice of Motion, Motion, Brief in Support of Motion, and Affidavit in Support of Motion forms.

Review the parenting plan in the judgment you are asking the Court to modify. In any motion to modify parenting time in a judgment, a parenting plan must be included as part of an amended judgment. The parenting plan must include, at minimum, the following 7 provisions:

1. Decision making responsibility for day to day decisions and major decisions such as education, health care and spiritual development.
2. Information sharing and access, including telephone and electronic access.
3. Legal residence of each child for school attendance.
4. Residential responsibility, parenting time, and parenting schedule for holidays, days off from school, birthdays, vacation planning, weekends, weekdays, and summers.
5. Transportation and exchange of the child, considering the safety of the parties.

6. Procedure for review and adjustment of the plan.
7. Methods for resolving disputes.

The judgment must also identify the parent who may claim each child as a dependent for filing income taxes.

If the parenting plan in the judgment you are asking the Court to modify does not include all 7 provisions, or identify the child tax exemption, the parents will need to reach an agreement on each missing provision, and add each missing provision to your Stipulated Agreement to Modify Primary Residential Responsibility form.

The Stipulated Agreement form includes paragraphs for adding each of the 7 required parenting plan provisions and the child tax exemption.

Step Two:

Complete the Stipulated Agreement, Financial Affidavit, and Confidential Information Forms in the Packet.

Stipulated Agreement to Modify Primary Residential Responsibility:

➡ BEFORE completing the Stipulated Agreement form: ➡

- Refer to your copy of the original judgment that established residential responsibility and/or parenting time, OR, if the original judgment has been amended, the most recently amended judgment. You made the copy in Step One.
- Identify the EXACT paragraphs you want the Court to modify.
- Identify the EXACT paragraphs related to child support. This set of forms requires you to address child support.

Caption (top of form):

- Complete the Plaintiff, Defendant, Case Number, County and Judicial District exactly as it appears in the judgment you are asking the court to modify.
- If your judgment does not include the County or the Judicial District, District Court maps are available at www.ndcourts.gov by clicking on the “Courts” link. (The County is within the Judicial District.)

Paragraph 2:

- List the initials and birth year for each child you are requesting modification in the judgment.

Paragraph 6:

- List the name of North Dakota County from the caption.

Paragraphs 10, 11, 12 & 13:

- Follow the instructions on the Stipulated Agreement form to complete Paragraphs 10 through 13.
- You will need to calculate child support based on the modifications to primary residential responsibility you are requesting.
 - **To calculate the new child support amount(s), go the instructions below for the Financial Affidavit form. Complete the Financial Affidavit form at the same time you use the child support calculator to calculate the new child support amount(s).**

Paragraphs to Add Missing Provisions of Parenting Plan and Child Tax Exemption:

- Follow the instructions on the Stipulated Agreement form to complete any missing parenting plan provisions or child tax exemption.
- You may cross out any paragraphs that you do not use.
- If the judgment already includes all required parenting plan provisions and child tax exemptions, remove the unused pages.

Final Paragraph:

- If the non-moving party is the Plaintiff in the judgment you are asking the court to modify, put a checkmark (✓) next to "Plaintiff."
- If the non-moving party is the Defendant in the judgment you are asking the court to modify, put a checkmark (✓) next to "Defendant."

Date and Signature:

- Follow the instructions on the pages after the date and signature lines on the Stipulated Agreement form.
 - **BEFORE YOU SIGN AND DATE THIS FORM** make sure you are in the presence of a Notary Public or Clerk of Court.
-

Financial Affidavit:

Complete the Financial Affidavit form and your new child support calculations at the same time.

The Child Support Guidelines Calculator is available online at

<https://childsupport.dhs.nd.gov/lawyers/child-support-guidelines>.

Court personnel and staff of the ND Legal Self Help Center cannot assist with child support calculations.

➡ **WARNING:** If you plan to ask the court to allow a parent to pay a different amount of child support than the Child Support Guidelines Calculator amount, you are strongly urged to consult a lawyer for assistance. The Calculator amount is presumed to be the correct amount of child support. The parent asking for a deviation from the Calculator amount must prove they meet one of the limited exceptions for deviation, and the deviation is in the best interests of the child(ren). See North Dakota Century Code Section 14-09-09.7 and North Dakota Administrative Code Section 75-02-04.1-09. ⬅

Caption (top of form):

- Complete the Caption of the Financial Affidavit form exactly as you filled out the Caption of the Stipulated Agreement form.

Follow the instructions on the Financial Affidavit form to complete the form:

- The form is completed by the parent who will be the obligor (the individual paying child support), if the court grants the motion to modify primary residential responsibility.

Date and Signature:

- **BEFORE YOU SIGN AND DATE THIS FORM** make sure you are in the presence of a Notary Public or Clerk of Court.
-

Confidential Information Form:

Each parent is solely responsible for making sure confidential information does not appear in the documents they prepare. Confidential information includes:

- Social security numbers
- Taxpayer identification numbers
- Birthdates
- Financial-account numbers.

Documents filed with the Court with references to confidential information must include only:

- The last four (4) digits of the social security number and taxpayer identification number
- The year of birth
- The last four (4) digits of the financial-account number

Since the forms in this packet include references to confidential information, you must prepare a Confidential Information form. The form must contain the full confidential information that is referenced in the documents.

Caption (top of form):

- Complete the Caption exactly as you filled out the Caption of the Stipulated Agreement form.

Page 1 Full Information Column:

- Fill in the full legal names, birth dates, and social security numbers of the Plaintiff, Defendant and each child listed in WHEREAS Paragraph 2 of the Stipulated Agreement form.

Page 1 Redacted Information Column:

- Fill in the information of the Plaintiff, Defendant and each child as it appears in the Stipulated Agreement and Financial Affidavit forms.

Page 2 Full Information Column:

- Fill in the full information for each financial account listed in the Stipulated Agreement and Financial Affidavit form.

Page 2 Redacted Information Column:

- Fill in the financial account information as it appears in the Stipulated Agreement and Financial Affidavit forms.

Date and Signature:

- Both Plaintiff and Defendant date and sign this completed form.

Step Three:

The Moving Party Completes the Notice of Motion, Motion, Brief in Support of Motion, and Affidavit in Support of Motion; Complete the Order to Amend the Judgment (Proposed), and Amended Judgment (Proposed) Forms in the Packet.

Notice of Motion to Modify Primary Residential Responsibility:

The moving party completes this form.

Caption (top of form):

- Complete the caption exactly as you filled out the Caption of the Stipulated Agreement form.

Paragraph 2:

- If the moving party is the Plaintiff in the judgment you are asking the court to modify, put a checkmark (✓) next to "Plaintiff."
- If the moving party is the Defendant in the judgment you are asking the court to modify, put a checkmark (✓) next to "Defendant."

Date and Signature:

- **DO NOT SIGN AND DATE THIS FORM.**
 - You will sign and date this form in Step Four.
 - You may fill in your printed name, address, and telephone number.
-

Motion to Modify Primary Residential Responsibility:

The moving party completes this form.

Caption (top of form):

- Complete the Caption exactly as you filled out the Caption of the Stipulated Agreement form.

Paragraph 1:

- Fill in the full, legal name of the parent who is the moving party.
 - If the moving party is the Plaintiff in the judgment you are asking the court to modify, put a checkmark (✓) next to "Plaintiff."
 - If the moving party is the Defendant in the judgment you are asking the court to modify, put a checkmark (✓) next to "Defendant."

Paragraph 2:

- Put a checkmark (✓) next to Plaintiff OR Defendant. Choose the same option from Paragraph 1.
- Paragraph 2(a):
 - Put a checkmark (✓) next to Plaintiff OR Defendant. Choose the same option from Paragraph 1.
 - List the initials and birth year for each child you are requesting modification in the judgment.
 - This list will be identical to the list in WHEREAS Paragraph 2 of the Stipulated Agreement form.

Date and Signature:

- **DO NOT SIGN AND DATE THIS FORM.**

- You will sign and date this form in Step Four.
 - You may fill in your printed name, address, and telephone number.
-

Brief in Support of Motion to Modify Primary Residential Responsibility:

The moving party completes this form.

Caption (top of form):

- Complete the Caption exactly as you filled out the Caption of the Stipulated Agreement form.

Paragraph 4:

- If the moving party is the Plaintiff in the judgment you are asking the court to modify, put a checkmark (✓) next to “Plaintiff.”
- If the moving party is the Defendant in the judgment you are asking the court to modify, put a checkmark (✓) next to “Defendant.”
- List the initials and birth year for each child in the judgment you are requesting modification.
 - This list will be identical to the list in Paragraph 2(a) of the Motion to Modify Primary Residential Responsibility.
- Put a checkmark (✓) next to Plaintiff OR Defendant. This is the parent who will be awarded primary residential responsibility if the Court grants your motion.

Date and Signature:

- **DO NOT SIGN AND DATE THIS FORM.**
 - You will sign and date this form in Step Four.
 - You may fill in your printed name, address, and telephone number.
-

Affidavit in Support of Motion to Modify Primary Residential Responsibility:

The moving party completes this form.

Caption (top of form):

- Complete the Caption exactly as you filled out the Caption of the Stipulated Agreement form.

County and State:

- Fill in the name of the state and the county within the state where the parent who is the moving party will sign the affidavit.

First Sentence:

- Fill in the full, legal name of the parent who is the moving party.

Paragraph 1:

- If the moving party is the Plaintiff in the judgment you are asking the court to modify, put a checkmark (✓) next to "Plaintiff."
- If the moving party is the Defendant in the judgment you are asking the court to modify, put a checkmark (✓) next to "Defendant."
- Put a checkmark (✓) in the appropriate box.

Paragraph 2:

- List the initials and birth year for each child in the judgment you are requesting modification.
 - This list will be identical to the list in Paragraph 2(a) of the Motion to Modify Primary Residential Responsibility.

Paragraphs 3 and 4:

- Follow the instructions on the Affidavit form to complete paragraphs 3 and 4.

Paragraph 5:

- Provide a detailed explanation of the reasons you are requesting the court modify primary residential responsibility.
- Paragraph 5 continues onto Page 3 of 4. You may use all of the space provided for your detailed explanation.

Paragraph 6:

- If the non-moving party is the Plaintiff in the judgment you are asking the court to modify, put a checkmark (✓) next to "Plaintiff."
- If the non-moving party is the Defendant in the judgment you are asking the court to modify, put a checkmark (✓) next to "Defendant."
- List the initials and birth year for each child in the judgment you are requesting modification.
 - This list will be identical to the list in Paragraph 2 of this form.

Paragraph 7:

- If the parent who completed the Financial Affidavit form is the Plaintiff in the judgment you are asking the court to modify, put a checkmark (✓) next to "Plaintiff."
- If the parent who completed the Financial Affidavit form is the Defendant in the judgment you are asking the court to modify, put a checkmark (✓) next to "Defendant."

- List the Paragraph number or numbers from your Stipulated Agreement form containing the amendments to child support.

Paragraph 8:

- If the non-moving party is the Plaintiff in the judgment you are asking the court to modify, put a checkmark (✓) next to "Plaintiff."
- If the non-moving party is the Defendant in the judgment you are asking the court to modify, put a checkmark (✓) next to "Defendant."

Paragraph 9:

- If the non-moving party is the Plaintiff in the judgment you are asking the court to modify, put a checkmark (✓) next to "Plaintiff."
- If the non-moving party is the Defendant in the judgment you are asking the court to modify, put a checkmark (✓) next to "Defendant."

Date and Signature:

- **DO NOT SIGN AND DATE THIS FORM.**
 - You will sign and date this form in Step Four.
 - You may fill in your printed name, address, and telephone number.
-

Order to Amend the Judgment (Proposed) Form:

Caption (top of form):

- Complete the Caption exactly as you filled out the Caption of the Stipulated Agreement form.
- If the judgment has not been amended, put a checkmark (✓) next to "JUDGMENT."
- If the judgment has been amended, put a checkmark (✓) next to "_____ AMENDED JUDGMENT." Fill in the number of the amended judgment, i.e. First, Second.

Page 1, First Paragraph:

- If the moving party is the Plaintiff in the judgment you are asking the court to modify, put a checkmark (✓) next to "Plaintiff."
- If the moving party is the Defendant in the judgment you are asking the court to modify, put a checkmark (✓) next to "Defendant."
- Put a checkmark (✓) in the same box you checked in the Caption. If you filled in the number of an amended judgment in the Caption, fill in the same number.

Follow the instructions on the Order form to complete the form:

- You will need to refer to your Stipulated Agreement form to complete this form.

DO NOT DATE OR SIGN THIS FORM. If the Court grants your motion and uses your proposed order, the judicial officer assigned to your case will date and sign the form.

Amended Judgment (Proposed) Form:

Caption (top of form):

- Complete the Caption exactly as you filled out the Caption of the Stipulated Agreement form.
- If the judgment has not been amended, fill in “First.”
- If the judgment has been amended, fill in the next number; i.e.
 - “First Amended Judgment” becomes “Second Amended Judgment”
 - “Second Amended Judgment” becomes “Third Amended Judgment”
 - And so on.

Page 1, Paragraph 1:

- If the moving party is the Plaintiff in the judgment you are asking the court to modify, put a checkmark (✓) next to “Plaintiff.”
- If the moving party is the Defendant in the judgment you are asking the court to modify, put a checkmark (✓) next to “Defendant.”

Page 1, Paragraph 2:

- **Do not fill in the name of the Judicial Referee or Judge.** Do not put a checkmark (✓) next to Judicial Referee or Judge.
- Fill in the first part of the second sentence. **DO NOT fill in the date.**

Page 1, Paragraph 3:

- Fill in the same information from the second sentence of Paragraph 2.

Page 2, Paragraph 1:

- Fill in the same information from the second sentence of Paragraph 2 on Page 1.

Follow the instructions on the Amended Judgment form to complete the form:

- You will need to refer to the judgment, or most recently amended judgment, that you want to modify, and your Order to Amend the Judgment (Proposed) form that contains the EXACT wording from your Stipulated Agreement form.
- Use the blank page of the Amended Judgment form to add any additional pages you need to complete this form.

DO NOT DATE OR SIGN THIS FORM. If the judicial officer assigned to your case grants your motion and signs your Order to Amend the Judgment (Proposed) form, the Clerk of Court will date and sign the form.

Step Four:

Date and Sign the Completed Notice of Motion, Motion, Brief in Support of Motion, and Affidavit in Support of Motion; Make Copies of Forms Completed in Step Two and Step Three.

The moving party dates and signs the following forms:

- The completed Notice of Motion to Modify Primary Residential Responsibility;
- The completed Motion to Modify Primary Residential Responsibility; and
- The completed Brief in Support of Motion to Modify Primary Residential Responsibility.

The moving party dates and signs the following form in the presence of a Notary Public or Clerk of Court:

- The completed Affidavit in Support of Motion to Modify Primary Residential Responsibility.

Make TWO COPIES of each of the forms completed in Step Two and Step Three:

- Notice of Motion to Modify Primary Residential Responsibility
- Motion to Modify Primary Residential Responsibility
- Brief in Support of Motion to Modify Primary Residential Responsibility
- Affidavit in Support of Motion to Modify Primary Residential Responsibility
- Stipulated Agreement to Modify Primary Residential Responsibility
- Financial Affidavit
- Confidential Information Form
- Order to Amend the Judgment (Proposed)
- Amended Judgment (Proposed)

The moving party keeps one copy of each completed form listed above for their records.

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Step Five:**Serve Copies of Completed Forms on the Non-Moving Party; Complete the Admission of Service Form.**

The moving party gives one copy of each completed form listed in Step Four to the non-moving party.

The non-moving party completes the Admission of Service form:

AFTER receiving a copy of the forms listed in Step Four, complete the Admission of Service form. This is proof to the Court that the non-moving party was served a copy of the motion documents that will be filed with the Court in Step Six.

Caption:

- Complete the Caption exactly as you filled out the Caption of the Stipulated Agreement form.

Date and Signature:

- Date and sign the form
- Fill in your printed name, address, and telephone number.

Make TWO COPIES of the completed Admission of Service form. Keep one copy for your records. Give one copy to the moving party for their records.

Step Six:**File the Original, Completed Motion to Modify Primary Residential Responsibility Forms and Other Supporting Documents with the Clerk of Court; Pay the Filing Fee.**

File the following Motion to Modify Primary Residential Responsibility Forms and other supporting documents with the Clerk of Court:

- The original, completed:
 - Notice of Motion to Modify Primary Residential Responsibility;
 - Motion to Modify Primary Residential Responsibility;
 - Brief in Support of Motion to Modify Primary Residential Responsibility;
 - Affidavit in Support of Motion to Modify Primary Residential Responsibility;
 - Stipulated Agreement to Modify Primary Residential Responsibility;
 - Financial Affidavit;

- Confidential Information Form;
- Order to Amend the Judgment (Proposed);
- Amended Judgment (Proposed); and
- Admission of Service.
- And:
 - Copies of documents used to complete the Financial Affidavit form (see page 17 of form); and
 - Make sure all social security numbers and financial account numbers that appear on the documents are blacked out.
 - Completed Child Support Calculator.

You will be required to pay a \$30.00 filing fee.

If you cannot afford to pay the filing fee, the judge may waive it under certain circumstances. Forms and instructions to request an order to waive filing fees are available at www.ndcourts.gov/ndlshc/ by clicking on the “Other Forms” link. File the completed fee waiver forms when you file your motion documents. If your request is not granted by the Court, you must be prepared to pay the filing fee or the Clerk of Court cannot accept your documents.

A case number will be assigned. Ensure the case number is written on your original, completed motion forms.

After the Court reviews all of the paperwork, the Court might require a hearing. If the judicial officer assigned to your case requires a hearing, you will be notified of the date, time and location of the hearing. You must attend the hearing. If you fail to attend the hearing the judicial officer may not grant your motion to modify primary residential responsibility. If the judicial officer grants the motion, the Clerk of Court will send a copy of an amended judgment signed by the Clerk of Court.

If the judicial officer does not require a hearing and the judicial officer grants your motion based solely on the documents you filed, the Clerk of Court will send you and the Defendant a copy of the signed amended judgment.

Primary residential responsibility is not modified until the judicial officer signs an order amending the judgment and the Clerk of Court signs an amended judgment.

If you need a certified copy of the amended judgment, you may obtain one for a \$10.00 fee from the Clerk of Court's office.